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DATE: FEBRUARY 3, 2006

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TIME:

YOUR REFERENCE: 09/901,512

OUR REFERENCE: 212463

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FROM: MARK JOY

DIRECT LINE: (312) 616-5673

**MESSAGE: APPELLANTS' APPEAL BRIEF**

Patent Application No. 09/901,512

Applicant: Ross et al.

Filed: July 9, 2001

TC/AU: 3628

Examiner: Nguyen, Nga B.

Docket No.: 212463

Customer No.: 23460

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Patent Application No. 09/901,512

Applicant: Ross et al.

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TC/AU: 3628

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**TRANSMITTAL OF  
APPELLANTS' APPEAL BRIEF**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR 41.37, appellants hereby submit Appellants' Brief on Appeal.

The items checked below are appropriate:

**1. Status of Appellants**

This application is on behalf of  other than a small entity or  a small entity.

**2. Fee for Filing Brief on Appeal**

Pursuant to 37 CFR 41.20(2), the fee for filing the Brief on Appeal is for:  other than a small entity or  a small entity.

**Brief Fee Due \$250.00**

**3. Oral Hearing**

Appellants request an oral hearing in accordance with 37 CFR 41.47.

A separate paper requesting oral hearing is attached.

**4. Extension of Time**

Appellants petition for a three-month extension of time under 37 CFR 1.136, the fee for which is \$510.00.

Appellants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that

02/06/2006 11:41:16 00000014 121216 09901512  
PAGE 2/20 \* RCVD AT 2/3/2006 5:07:28 PM [Eastern Standard Time] \* SVR:USPTO-EXRF-6/41 \* DNI:2738300 \* CSID:312 616 5700 \* DURATION (mm:ss):04:30  
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Application No. 09/901,512

FEB 03 2006

Appeal Brief Transmittal

appellants have inadvertently overlooked the need for a petition and fee for extension of time.

**Extension fee due with this request: \$510.00**

**5. Total Fee Due**

The total fee due is:

Brief on Appeal Fee	\$250.00
Request for Oral Hearing	\$500.00
Extension Fee (if any)	\$510.00

**Total Fee Due: \$1260.00**

**6. Fee Payment**

Attached is a check in the sum of \$  
 Charge Account No. 12-1216 the sum of \$1260.00. A duplicate of this transmittal is attached.

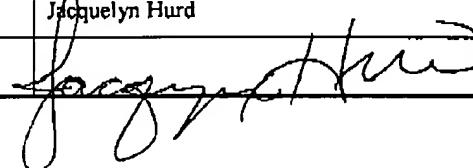
**7. Fee Deficiency.**

If any additional fee is required in connection with this communication, charge Account No. 12-1216. A duplicate copy of this transmittal is attached.

Respectfully submitted,

  
 Mark Joy, Reg. No. 35,562  
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 Two Prudential Plaza  
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Date: February 3, 2005

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Name (Print/Type)	Jacquelyn Hurd		
Signature		Date	February 3, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Application No. 09/901,512

Applicant: Ross, et al.

Filed: July 9, 2001

TC/AU: 7508

Examiner: Nguyen, Nga B.

Docket No.: 212463

Customer No.: 23460

**APPELLANTS' APPEAL BRIEF**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In support of the appeal from the final rejection dated February 28, 2005,  
Appellants now submit their Brief.

*Real Party In Interest*

The patent application that is the subject of this appeal is assigned to RLIS, Inc.

*Related Appeals and Interferences*

There are no presently pending appeals or interferences that are related to this appeal.

*Status of Claims*

Claims 7-14 and 37-46 are pending and stand finally rejected, and these rejections are presently being appealed. Claims 1-6 and 15-36 have previously been cancelled.

A complete listing of the claims on appeal appears in the Claims Appendix.

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*Status of Amendments*

There were no amendments submitted after the final rejection.

*Summary of Claimed Subject Matter*

There are 18 pending claims, of which claims 7 and 37 are independent. The summaries reference the specification filed with the application on July 9, 2001. The method and system, recited in claims 7 and 37, respectively, relate to supporting a *variety of* (i.e., *multiple*) *grease board views* that present active patient record lists/sets. The patient lists, corresponding to sets of stored active patient information record sets, are displayed in accordance with a designated one of the *variety* of supported *grease board views*.

Independent claim 7 pertains to a method for providing access to patient information via a supported set of *grease board views*. After a user logs onto a peripheral terminal (*see, Fig. 2, Security validation module 101, page 14, line 23 to page 15, line 10*), an active patient list *grease board* is displayed (*see, Fig. 2, Tracking Module 102, page 15, line 11 to page 16, line 7, also page 13, lines 13 to page 14, line 5*). The *grease board* is capable of displaying, based upon the information associated with each active patient record, a set of particular information relating to each active patient record. Claim 7 thereafter recites a list of patient information that has historically been maintained for each active patient (page 15, lines 14-17). Rather than support only a single *grease board* view of active patients and their related information, in accordance with an inventive aspect of the present invention, a *variety of* *grease board views* are supported for presenting the related patient record information for active patient records (*see, FIG. 2 blocks adjacent "Tracking Module" 102, "User selects tracking view" and "Select display:", page 15, lines 18-26 and page 30, lines 3-20*). Patient record information for the set of active patient records is presented according to a designated one of the *variety of* *grease board views*.

Independent claim 37 pertains to a system for providing access to patient information, via a peripheral display terminal, according to a *variety of* *grease board views*. The system includes two modules having computer executable instructions. A security module supports logging a user onto a peripheral terminal – thereby giving the user access to patient records (*see, Fig. 2, Security validation module 101, page 14, line 23 to page 15, line 10*). The recited system also includes a tracking module which facilitates displaying an active patient list *grease board* which displays a set of related information from each one of a set of active

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patient records (see, Fig. 2, Tracking Module 102, page 15, line 11 to page 16, line 7, also page 13, lines 13 to page 14, line 5). In accordance with an inventive aspect of the present invention, a variety of grease board views are supported for presenting the related patient record information for active patient records. (see, FIG. 2 blocks to the right of "Tracking Module" 102 stating "User selects tracking view ..." and "Select display: ...", page 15, lines 18-26 and page 30, lines 3-20). The system presents patient record information for the set of active patient records according to a designated one of the variety of grease board views.

*Grounds of Rejection to be reviewed on Appeal*

The grounds of rejection to be reviewed on appeal are the grounds stated in the Final Office Action mailed on February 28, 2005, for rejecting the pending claims. The grounds are summarized as follows:

Claims 7, 13, 37-40, 45 and 46 were rejected under 35 U.S.C. §102(b) as being anticipated by Collen, *Hospital Computer Systems*, John Wiley and Sons, 1974 (hereinafter the Collen reference).

Claims 8, 10-12 and 42-44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Collen in view of "Official Notice."

Claims 9 and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Collen in view of Engleson et al. U.S. Pat. No. 5,781,442 (the Engleson patent).

Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Collen in view of Samar U.S. Pat. No. 5,778,072 (the Samar patent) and Ballantyne et al. U.S. Pat. No. 5,867,821 (the Ballantyne patent). To reduce the issues on appeal, Applicants do not seek separate review of the specific grounds for the rejection of claim 14 recited in the Final Office Action.

*Argument*

All the pending claims recite or pertain to a method/system that supports a variety of (i.e., multiple) grease board views of active patient record information. Though the Final Office Action rejects independent claims 7 and 37 as anticipated by Collen, an anticipation rejection is only proper when a single prior art reference discloses each element of a rejected claim. 35 U.S.C. §102; *see also* MPEP §2131. Where, as here, each claim contains one or more elements for which there is no teaching in the cited prior art reference, the rejection is improper and

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should be reversed. In particular, each of the independent claims recites a "variety of grease board views" element that is not disclosed within the teachings of the Collen reference. Instead, the Collen reference unequivocally discloses only a *single* grease board view.

Applicants respectfully submit that the Final Office Action has not provided a *prima facie* case in support of its obviousness rejections. 35 U.S.C. §103(a); *see also* MPEP 2143. The obviousness rejections are improper since each claim includes an element that is not present in the prior art. Applicants furthermore challenge the bases for the specific modifications allegedly suggested by the prior art. Finally, the Final Office Action did not provide citations to prior art references in support of its Official Notice as Applicants have previously requested.

**The Rejection of Claims 7, 13, 37-40, 45 and 46 under 35 U.S.C. §102(b)**

**Claims 7 and 37-40**

Applicants' invention recited in independent claims 7 and 37 is directed to displaying a list of patients' records via an electronic grease board according to a designated one of a *variety of* (*i.e.*, *multiple*) *grease board views*. As explicitly required by the language of claims 7 and 37 (*i.e.*, "patient record information sets" in the last clause of the claims), each one of the variety of grease board views displays information for a set of active patient records. Presenting information associated with a *single* selected active patient record does not constitute a grease board view. Applicants describe the "variety of grease board views" aspect of their invention, for example, at pages 13 and 14 which state:

Active patient list information is displayed in a department layout.

A screen shows a list of patients waiting to be seen by a physician, in the order of priority. Another display shows patient lists by patient complaints. A further display lists patient lists by those whose charts have not been dictated by the physician.

The "Select Display" box in Figure 2 of the application recites the following choices for a grease board view: department layout, waiting patients layout, patient complaints, nondictated, outstanding orders, and latest vitals. Applicants describe this portion of Figure 2 at pages 15 and 16 of their specification as follows:

This information can be presented in a variety of formats, sometimes with additional information, to help the department personnel quickly obtain the patient tracking information they need. Department layout displays a map of the department showing occupancy (and availability) and physician assignments. Waiting patients shows patients in the order they should be taken. Patient complaints presents patients with their associated complaints. A patient can be selected from any of these displays to enter his/her individual medical record.

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Other displays show outstanding orders and the latest vitals on each patient.

Each of these grease board views presents information associated with a list of active patient records in a different role/task driven way.

To anticipate the presently pending claims 7 and 37, the Collen reference must support a variety of (i.e., multiple) grease board views. Each grease board view lists/enumerates a set of active patient records, albeit in different formats. However, Collen discloses an electronic grease board that supports only a *single* grease board view (FIG. 6-1b at page 124).

The Collen reference discloses a hierarchically arranged set of displays associated with an electronic patient management platform. After initially logging in, an active patient record list (i.e., grease board) is displayed in its one and only form. This single grease board view is depicted in FIG. 6-1b at page 124. FIG. 6-1b depicts the *only* grease board view supported by the system. As explained in the first full paragraph of page 125, the other displays (6-1c through 6-1v) in the subsequent pages relate to a single patient record, selected from the single display format depicted in FIG. 6-1b. This amounts to "drilling down" within a single selected entry on the original displayed patient list (FIG. 6-1b). Thus, contrary to the assertions at page 4 of the Final Office Action, the displays presented in FIGs. 6-1c through 6-1v depict user interfaces exposed by drilling down from a patient listed in FIG. 6-1b, and in no way constitute an alternative way of presenting a grease board comprising a list of active patients. In the event that the rejection of claims 7 and 37 is maintained, Applicants request identification of a single alternative grease board view containing a listing of active patient records in any of the displays represented in FIGs. 6-1c through 6-1v.

Furthermore, Collen's "multiple listings and indices" are not equivalent to Applicants' recited "variety of grease board views." At page 3, the Final Office Action initially asserts, in support of the rejection of claim 7, that Collen's multiple listings and indices constitutes Applicants' claimed variety of grease board views. However, while Applicants' recited variety of grease board views provides alternative presentations of the listed information associated with a set of active patient records, Collen's "multiple listings and indices" refer to ancillary sources of information that might be of use to a person with access to a patient's record. The examples of the listings and indices provided by Collen at pages 122-23 include drug names and forms and common orders. Nowhere does Collen suggest presenting the list of active patient records depicted in FIG. 6-1b in any alternative grease board views.

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The bases for Applicants' traversal of claim 37 are substantially the same as those provided for claim 7. Claim 37 is directed to a system that supports displaying a set of active patient records in a variety of ways that is not disclosed in the Collen reference which supports only a single view of an active patent record list (depicted in FIG. 6-1b).

In conclusion with regard to claims 7 and 37, Applicants' recited invention relates to providing a variety of ways for presenting a patient list information grease board that supports a user selecting a particular patient and thereafter accessing the specific patient record information associated with the patient. Each grease board view, of the variety of views, is populated by data retrieved from "patient record information sets" (emphasis added). Thus the invention requires a variety of ways of displaying patient record information for a set of patients in a grease board display. As explained above, the prior art Collen reference only describes a single way of displaying a list of active patient records (depicted in FIG. 6-1b on page 124 of *Collen*). The subsequent views (FIGs. 6-1c through 6-1v) in the Collen reference do not display lists of active patient records. The anticipation rejection of claims 7 and 37 (dependents thereof) is improper and should be withdrawn.

#### Claims 13

Applicants submit that claim 13 cannot be anticipated since claim 13 requires the grease board view (FIG. 6-1b in Collen) to be brought up when a user inserts a security card. However, Collen discloses, at the top of page 125, presenting the non-grease board display depicted in FIG. 6-1a when a security card is inserted.

#### Claims 45 and 46

Applicants submit that claims 45 and 46 cannot be anticipated by Collen since both claims require their specific information to be provided in a grease board view. However, neither FIG. 6-1v nor FIG. 6-1u display grease board views.

#### The Rejection of Claims 8, 10-12 and 42-44 under 35 U.S.C. §103(a)

##### **Claim 8**

Applicants furthermore traverse the rejection of claim 8 as obvious over Collen in view of Official Notice. Applicants agree that using smaller and larger letters is known. However, there is no suggestion to use this technique to distinguish between ordered/completed statuses of tasks listed for a patient *on a grease board view*. The Final Office Action asserts, without any support in the prior art, that this technique of distinguishing classes of tasks listed in a grease board view was suggested by the prior art. In the event that the rejection is not withdrawn Applicants expressly request identification of a

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prior art reference which supports the Final Office Action's assertion that the recited *combination* was suggested, and therefore obvious, over the prior art.

**Claims 10 and 42**

Applicants traverse the rejection of claims 10 and 42 as obvious over Collen in view of Official Notice. Claims 10 and 42 specify at least one of the grease board views being provided in the form of a list of patients waiting to be seen by a physician, ordered by "priority." The Office Action concedes that such list is not disclosed in Collen. However, in response to Applicant's explicit previous traversal of the Office Action's assertion that such grease board view was well known, the Final Office Action has not provided a reference in support of this previous assertion. In the event that this rejection is not withdrawn, Applicants request provision of a reference in support of the Final Office Action's assertions regarding the content of the prior art and identification of motivation to include such lists in a system that supports a variety of grease board views.

**Claims 11 and 43**

Applicants traverse the rejection of claims 11 and 43 as obvious over Collen in view of Official Notice. Claims 11 and 43 specify at least one of the grease board views being provided in the form of a list of active patient records organized by "patient complaints." The Office Action concedes that such list is not disclosed in Collen. However, in response to Applicant's explicit previous traversal of the Office Action's assertion that such grease board view was well known, the Final Office Action has not provided a reference in support of this previous assertion. In the event that this rejection is not withdrawn, Applicants request provision of a reference in support of the Final Office Action's assertions regarding the content of the prior art and identification of motivation to include such lists in a system that supports a variety of grease board views.

**Claims 12 and 44**

Applicants traverse the rejection of claims 12 and 44 as obvious over Collen in view of Official Notice. Claims 12 and 44 specify at least one of the grease board views being provided in the form of a list of active patient records organized by "patients whose reports have not been dictated by a physician." The Office Action concedes that such list is not disclosed in Collen. However, in response to Applicant's explicit previous traversal of the Office Action's assertion that such grease board view was well known, the Final Office Action has not provided a reference in support of this previous assertion. In the event that this rejection is not withdrawn, Applicants request provision of a reference in support of the Final

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Office Action's assertions regarding the content of the prior art and identification of motivation to include such lists in a system that supports a variety of grease board views.

Furthermore, with regard to the rejection of claims 10-12 and 42-44 Applicants traverse the assertion, by the Final Office Action, that it was well known at the time of the invention that providing the specified views as part of a variety of supported grease board views would enable health care providers to efficiently, quickly and easily identify the patients in order to deliver care to the patients. This assertion is troublesome in view of the absence of any teachings in the prior art of supporting a variety of grease board views. For at least this additional reason the rejections of claims 10-12 and 42-44 is improper. Applicants respectfully request that this rejection be withdrawn in the event that a reference is not provided in support of the Office Action's assertions that it was known in the art at the time of the invention that the recited combinations would indeed enable health care providers to "efficiently, quickly and easily identify the patients in order to deliver care to the patients."

**The Rejection of Claims 9 and 41 under 35 U.S.C. §103(a)**

Applicants traverse the rejection of claims 9 and 41 as obvious over Collen in view of the Engleson patent. Claims 9 and 41 specify at least one of the grease board views being provided in the form of a "department layout." The Office Action concedes that such view is not disclosed in Collen. The Office Action asserts that the recited "department layout" is disclosed in FIG. 12 of Engleson. The layout in FIG. 12 displays rooms and patients' names. It also generates alarm indicators. It is clear from the accompanying written description of FIG. 12 that the department layout view in Engleson does not provide access to the patient information recited in claims 7 and 37 that is a pre-requisite for a grease board in accordance with Applicants' recited invention. In the event that this rejection is not withdrawn, Applicants request provision of a substitute reference depicting a grease board view having a department layout arrangement.

Furthermore, with regard to the rejection of claims 9 and 41, Applicants traverse the assertion, by the Final Office Action, that it was well known at the time of the invention that providing the specified views as part of a variety of supported grease board views would enable health care providers to efficiently, quickly and easily identify the patients in order to deliver care to the patients. This assertion is troublesome in view of the absence of any teachings in the prior art of supporting a variety of grease board views. For at least this additional reason the rejections of claims 9 and 41 is improper. Applicants respectfully request that this rejection be withdrawn in the event that a reference is not provided in support of the Office Action's assertions that it was known in the art at the time of the

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invention that the recited combinations would indeed enable health care providers to "efficiently, quickly and easily identify the patients in order to deliver care to the patients."

**The Rejection of Claim 14 under 35 U.S.C. §103(a)**

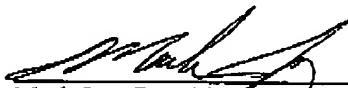
Applicants traverse the rejection of claim 14 for at least the reasons presented above regarding claim 13 from which it depends. For purposes of this appeal, claims 13 and 14 will stand or fall together.

*Conclusion*

The pending claims all recite providing a variety of grease board views. Such multiple views of a set of active patient records is not disclosed in the cited Collen reference that provides only a single grease board view (FIG. 6-1b). The Final Office Action's assertions have been carefully considered, but the basic truth of the matter is that Applicants' multi-view grease board is simply not contemplated by the prior art.

Accordingly, independent claims 7 and 37 cannot be anticipated by Collen. Nor can any of the dependent claims be rendered unpatentable by the prior art, and Applicants request withdrawal of the presently pending rejections.

Respectfully submitted,



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Date: February 3, 2006

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*Claims Appendix*

7. (Previously presented) A method of providing access to patient record documentation, patient tracking and order entry information in a system capable of rendering patient information in a variety of grease board views, comprising the steps of:

logging a user on to a peripheral terminal, and

displaying, at the peripheral terminal, a name of the user and an active patient list grease board, wherein the active patient list grease board is capable of displaying, from each one of a set of active patient records, a set of related information including:

room location,

patient's name,

patient's physician,

nursing orders,

patient priority and elapsed time of stay,

status of assignment of nurse and physician, and

status of X-rays, labs, tests, nurses' orders, records, dictation and vital signs,

wherein patient record information sets, from the active patient records, are presented on the peripheral terminal, during the displaying step, in accordance with a designated one of the variety of grease board views.

8. (Previously presented) The method of claim 7, wherein an ordered status is shown in small letters and a completed status is shown by large letters for X-rays, labs, tests, nurses' orders and dictation transcription.

9. (Previously presented) The method of claim 7, wherein the displaying step comprises displaying the active patient list grease board information in department layout.

10. (Previously presented) The method of claim 7, wherein the displaying step comprises displaying the active patient list grease board information in the form of a list of patients waiting to be seen by a physician, in order of priority.

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11. (Previously presented) The method of claim 7, wherein the displaying step comprises displaying the active patient list grease board information in the form of a list of patient complaints.

12. (Previously presented) The method of claim 7, wherein the displaying step comprises displaying the active patient list grease board information in the form of a list of patients whose reports have not been dictated by a physician.

13. (Previously presented) The method of claim 7, wherein the logging a user on comprises inserting a security card in a receiver connected to the peripheral terminal, which logs on and identifies the user and brings up the active patient list grease board.

14. (Previously presented) The method of claim 13, wherein pulling the security card from the receiver automatically exits the screen, establishes a security lockout on the peripheral terminal, and saves the data which has been entered on the screen by transferring the data from the peripheral terminal to a file server communicatively connected to the peripheral terminal.

37. (Previously presented) A system for presenting, at a peripheral display terminal, patient information in a variety of grease board views, the system comprising:

a security module including computer executable instructions for logging a user on to a peripheral terminal, and

a tracking module including computer executable instructions for displaying, at the peripheral display terminal, an active patient list grease board, wherein the active patient list grease board is capable of displaying, from each one of a set of active patient records, a set of related information including the patient's name and a variety of task-related information, wherein patient record information sets, from the active patient records, are presented on the peripheral terminal, during the displaying step, in accordance with a designated one of the variety of grease board views.

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38. (Previously presented) The system of claim 37 wherein the security module and tracking module cooperatively limit access, by a logged on user, to patient information associated with ones of the set of active patient records.

39. (Previously presented) The system of claim 38 wherein access to patient information is provided in the form of a set of functions that modify data associated with the active patient records.

40. (Previously presented) The system of claim 39 wherein access is based upon a user type associated with the logged on user.

41. (Previously presented) The system of claim 37 wherein the variety of grease board views comprises a department layout view of patient information associated with the active patient records that includes a map of rooms and patient information associated with an occupant.

42. (Previously presented) The system of claim 37, wherein the variety of grease board views comprises a waiting patients view including a list of patients waiting to be seen by a physician, in order of priority.

43. (Previously presented) The system of claim 37, wherein the variety of grease board views comprises a patient complaints view.

44. (Previously presented) The system of claim 37, wherein the variety of grease board views comprises a dictation status view comprising at least a list of patients whose reports have not been dictated by a physician.

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45. (Previously presented) The system of claim 37, wherein the variety of grease board views comprises an outstanding orders view comprising at least a list of tasks that are pending for identified patients.

46. (Previously presented) The system of claim 37, wherein the variety of grease board views comprises a vital signs view comprising most recent vital signs taken for a list of identified patients.

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*Evidence Appendix*

None.

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*Related Proceedings Appendix*

None.

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